

# **EXHIBIT 12**

1 **QUINN EMANUEL URQUHART & SULLIVAN, LLP**  
2 Kevin Y. Teruya (Bar No. 235916)  
3 kevinteruya@quinnemanuel.com  
4 865 South Figueroa Street, 10th Floor  
5 Los Angeles, CA 90017  
6 (213) 443-3000

7 **HAGENS BERMAN SOBOL SHAPIRO LLP**  
8 Shana E. Scarlett (Bar No. 217895)  
9 shanas@hbsslaw.com  
10 715 Hearst Avenue, Suite 202  
11 Berkeley, CA 94710  
12 (510) 725-3000

13 *Interim Co-Lead Consumer Class Counsel*

14 [Additional counsel listed on signature page]

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 MAXIMILIAN KLEIN, et al.,

19 Consolidated Case No. 3:20-cv-08570-JD

20 Plaintiffs,

21 The Hon. James Donato

22 vs.

23 **CONSUMER PLAINTIFFS' THIRD**  
24 **SUPPLEMENTAL RESPONSES AND**  
25 **OBJECTIONS TO INTERROGATORY**  
26 **NO. 1 OF DEFENDANT META**  
27 **PLATFORMS, INC.'S FIRST SET OF**  
28 **INTERROGATORIES**

29 META PLATFORMS, INC.,

30 Defendant.

31 This Document Relates To: All Actions

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1 14. Nothing in Consumer Plaintiffs' responses and objections are intended or shall be  
2 construed or deemed to be an admission or waiver by Consumer Plaintiffs regarding any issue,  
3 including the relevance or admissibility of any documents, data information, or subject matter.

4 15. Consumer Plaintiffs object to the "Definitions" section preceding the Interrogatories  
5 as vague and ambiguous, as well as overly broad, unduly burdensome, and disproportionate. By  
6 submitting these responses, Consumer Plaintiffs do not in any way adopt Facebook's purported  
7 definitions of words or phrases. Consumer Plaintiffs further object to Facebook's proposed  
8 "Definitions" to the extent that they are susceptible to more than one meaning or are inconsistent  
9 with the ordinary or customary meaning of such words and phrases or the rules governing the  
10 permissible scope of discovery.

11 16. Consumer Plaintiffs object to the "Instructions" section preceding the Interrogatories  
12 as vague and ambiguous, as well as overly broad, unduly burdensome, and disproportionate to the  
13 extent that they purport to impose an obligation on Consumer Plaintiffs to locate, obtain, and  
14 produce information, documents, and things that are not in the possession, custody, or control of  
15 Consumer Plaintiffs.

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17 **SPECIFIC RESPONSES AND OBJECTIONS**

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19 **INTERROGATORY NO. 1:**

20 Identify all Participant(s) in your alleged "Social Network Market."

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22 **THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

23 Consumer Plaintiffs object to this Interrogatory on the grounds set forth in detail above in  
24 their General Objections. Consumer Plaintiffs further object to this Interrogatory on the grounds that  
25 by seeking the identification of "all Participant(s)" in the Social Network Market, the Interrogatory  
26 is premature because fact discovery is ongoing, Consumer Plaintiffs' investigation is continuing,  
27 Facebook continues to produce documents in response to Consumer Plaintiffs' discovery requests,  
28 and class and merits expert discovery is not set to commence until July 7, 2023, and January 12,

1 2024, respectively (Dkt. 379); *see also In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*2  
 2 (N.D. Cal. Dec. 11, 2008) (in putative antitrust class action, where discovery ongoing, defendant's  
 3 interrogatories to class plaintiffs regarding "market definition" were "premature at this stage of  
 4 discovery"). Defining the relevant market "is a factual inquiry" that requires "the benefit of fact  
 5 discovery" and expert analysis, including because it can often "involve a complicated economic  
 6 analysis[.]" *Newcal Indus., Inc. v. Ikon Off. Sol.*, 513 F.3d 1038, 1045 (9th Cir. 2008); *Powderly v.*  
 7 *Blue Cross & Blue Shield of N. Carolina*, 2008 WL 4129767, at \*2 (W.D.N.C. Sept. 4, 2008); *U.S.*  
 8 *Healthcare, Inc. v. Healthsource, Inc.*, 986 F.2d 589, 599 (1st Cir. 1993); *Theme Promotions, Inc.*  
 9 *v. News Am. Mktg. FSI*, 546 F.3d 991, 1002 (9th Cir. 2008).

10 Consumer Plaintiffs further object to this Interrogatory to the extent that the Interrogatory  
 11 seeks information that will necessarily be the subject of expert testimony and analysis. Consumer  
 12 Plaintiffs will make expert disclosures and produce their expert reports pursuant to the schedule for  
 13 expert discovery set by the Court.

14 Consumer Plaintiffs further object to this Interrogatory to the extent that the Interrogatory  
 15 seeks information protected by the attorney-client privilege, common interest privilege, or work  
 16 product doctrine, or that is otherwise privileged or protected from discovery.

17 Subject to and without waiving the foregoing General and Specific Objections, Consumer  
 18 Plaintiffs respond as follows:

19 Consumer Plaintiffs' present response to Interrogatory No. 1 is necessarily preliminary and  
 20 subject to supplementation, including based on not-yet obtained fact discovery and expert analysis.  
 21 Consistent with the parties' agreement (*see* March 21, 2023 Email from B. Pepperman to O.  
 22 Greene)—and based on the information currently available to them—Consumer Plaintiffs presently  
 23 understand that "Participants" in the Social Network Market include, or have included (to the extent  
 24 that they no longer exist): Bebo; Diaspora; Facebook; Flip.com; Friendster; Google+; Hi5;  
 25 Instagram; MeWe; Myspace; Orkut; SixDegrees, Snapchat, and Xanga.

26 Because Consumer Plaintiffs have not yet completed their investigation, Facebook only  
 27 recently substantially completed a subset of its document production and is continuing to produce  
 28 documents, Facebook continues to produce documents and data, certain depositions and their

1 transcripts remain outstanding, and expert discovery has not yet begun, Consumer Plaintiffs reserve  
2 the right to amend or supplement this response.

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1 DATED: June 23, 2023

2 By: /s/ Shana E. Scarlett

3 **HAGENS BERMAN SOBOL SHAPIRO LLP**

4 Shana E. Scarlett (Bar No. 217895)

shanas@hbsslaw.com

5 715 Hearst Avenue, Suite 202

Berkeley, CA 94710

6 (510) 725-3000

7 Steve W. Berman (admitted *pro hac vice*)

steve@hbsslaw.com

8 1301 Second Avenue, Suite 2000

Seattle, WA 98101

9 (206) 623-7292

10 *Interim Co-Lead Consumer Class Counsel*

12 **LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

13 W. Joseph Bruckner (admitted *pro hac*  
*vice*)

wjbruckner@locklaw.com

14 Robert K. Shelquist (admitted *pro hac*  
*vice*)

rkshelquist@locklaw.com

16 Brian D. Clark (admitted *pro hac vice*)

bdclark@locklaw.com

17 Rebecca A. Peterson (Bar No. 241858)

rapeterson@locklaw.com

18 Kyle Pozan (admitted *pro hac vice*)

kjpozan@locklaw.com

20 Laura M. Matson (admitted *pro hac vice*)

lmmatson@locklaw.com

21 100 Washington Avenue South, Suite 2200

Minneapolis, MN 55401

22 (612) 339-6900

23

24

25

26

27

28

By: /s/ Kevin Y. Teruya

**QUINN EMANUEL URQUHART & SULLIVAN, LLP**

Kevin Y. Teruya (Bar No. 235916)

kevinteruya@quinnemanuel.com

Adam B. Wolfson (Bar No. 262125)

adamwolfson@quinnemanuel.com

Claire D. Hausman (Bar No. 282091)

clairehausman@quinnemanuel.com

Brantley I. Pepperman (Bar No. 322057)

brantleypepperman@quinnemanuel.com

865 South Figueroa Street, 10th Floor

Los Angeles, CA 90017-2543

(213) 443-3000

Michelle Schmit (admitted *pro hac vice*)

michelleschmit@quinnemanuel.com

191 N. Wacker Drive, Suite 2700

Chicago, IL 60606-1881

(312) 705-7400

Manisha M. Sheth (admitted *pro hac vice*)

manishasheth@quinnemanuel.com

51 Madison Avenue, 22nd Floor

New York, New York 10010

(212) 849-7000

*Interim Co-Lead Consumer Class Counsel*